

CHARLES A. MORRISS

IBLA 78-387

Decided August 31, 1978

Appeal from an April 6, 1978, decision of the California State Office, Bureau of Land Management, declaring four placer mining claims null and void ab initio.

Affirmed.

1. Mining Claims: Generally -- Mining Claims: Withdrawn Lands

A mining claim is properly declared null and void ab initio where the land on which it is located was segregated by a formal forest exchange application, which withdrew the selected public lands from location under the mining laws prior to the time that the mineral location was made.

APPEARANCES: Charles A. Morriss, pro se.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Charles A. Morriss, William R. Morriss, and Elvin D. Morriss appeal from a decision of the California State Office, Bureau of Land Management (BLM), declaring the Roehoe #5, Roehoe #6, Roehoe #7, and Roehoe #8 placer mining claims null and void ab initio. The Roehoe #7 and Roehoe #8 claims are situated in the SE 1/4 SE 1/4 sec. 6, T. 16 N., R. 10 E., Mount Diablo meridian, Nevada County, California. The Roehoe #5 and Roehoe #6 claims are situated in the NE 1/4 NE 1/4 sec. 7, T. 16 N., R. 10 E., Mount Diablo meridian. All were located by appellants on January 24, 1977, and filed for recordation with BLM on March 24, 1977.

According to the decision below, the lands encompassed by the above-described claims are all included in forest exchange application, S-5293, filed on July 26, 1972, more than 5 years prior to the location of these claims. In accordance with 43 CFR 2202.5 and

43 CFR 2091.2-3, a forest exchange application results in a segregation of the selected lands at the time that formal application is filed with BLM. As this Board has stated, mining claims located on the public domain subsequent to action segregating the lands from mineral entry are properly declared null and void ab initio. Mark W. Boone and John L. Dutra, 33 IBLA 32 (1976).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Douglas E. Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Joan B. Thompson
Administrative Judge

